

Attorney Docket Number ET98-001**PATENT****Remarks**

It is believed that the claims as filed distinguish over prior art of record, but to clarify patentability, applicants have amended the claims for clarification. The claims have been amended to include clarifying descriptions of broader phrases. Applicant has amended Claims 1,20,39,44,49,54,55,59,66, first Claim 69 and second Claim 69, 72,81,90,96, and 101 to clarify and more distinctly point out and claim applicant's invention, but not to overcome any prior art. The amendments made incorporate terms of description and not of limitation. Claims 1-102 remain in the application.

In the official office action, Claims 1-32 were rejected under 35 USC §103(a), as being obvious in view of Silverman, et. al, (US Patent No. 5,924,082). Applicants respectfully disagreed, and noted, in an office interview, that Silverman does not disclose, teach, claim or render obvious a multivariate negotiations system, but instead Silverman is essentially a matching system which allows a user to qualify the matching. Silverman does not teach applicants' invention but teaches away from it by making it clear at Col. 12, lines 63-67 that "The system does not automatically execute transactions. Instead, the system introduces compatible counterparties who are provided with an opportunity to communicate with one another prior to execution of the transaction to negotiate some or all terms of the transaction." Again, at Col. 12, lines 54-57, Silverman states that "once a match occurs, the system automatically initiates a "call" from one party to the other party which is displayed, for example, in box 411 of screen 400." The parties are left to negotiate the terms of any transaction manually, through use of the

Attorney Docket Number ET98-001

PATENT

telephone or through a dialog window. Nothing in Silverman teaches or discloses automating the negotiations process, only the matching process.

Applicants amended Claims 1, 20, 39, 49, 59, 66, 72, 81, 90, and 96 to clarify that applicants' invention is an automated negotiations engine.

Applicants respectfully submit that the clarifications in the claims which more clearly point out and describe applicants' invention as "an automated negotiations engine for analyzing terms, the analysis of terms comprising understanding their purpose, formatting the terms according to the purpose and placing them into user supplied context for use by a user" have overcome any basis for rejection.

For the phrase "automated negotiations engine" support is found in the specification at Page 60, lines 9-20, Page 61 lines 1-18, and Page 62, lines 1-18, where the processing steps of the automated negotiations engine are described. On Page 62, lines 11-16, for example, state:

Whether or not a concluding document is requested, the system automatically displays the changes so they can be easily seen and the present invention also checks to see whether a state change is needed at Step 212-16. If a state change is needed it is initiated at step 212-20. Depending on the community, the participants, and the transactions involved, state changes could be as simple as payment authorizations sent electronically or as complex as multi-step processes desired by the participants. [Emphasis added]

Also, as noted in the specification at page 52, lines 14-18 and Page 53, lines 1-4:

Next, in Figure 1L, network functions 207 of the present invention are shown. As mentioned above, most of the functions of multivariate negotiations engine 212 are actually implemented as part of Webserver software 210s. As data is sent

Attorney Docket Number ET98-001

PATENT

to and from the Internet 04 by Webserver 210W, Webserver software 210s interprets the TCP-IP protocol and transfers the contents to multivariate negotiations engine 212's Webserver and dynamic HTML functions 207-02. In one embodiment, these functions cause dynamic HTML text to be created to implement and communicate with the other functions of the present invention. Those skilled in the art will appreciate that Java, Java scripting, XML, or any of a number of other languages could also be used for such communications. [Emphasis added]

Thus, it can be seen from these and other portions of the specification, amending the claims to clarify that the negotiations engine is an automated negotiations engine has ample support in the specification as filed. It is implemented in computer software which is executed as part of Webserver software in the example referenced above.

Support for the phrase "analyzing terms, the analysis of terms comprising understanding their purpose, formatting the terms according to the purpose and placing them into user supplied context for use by a user" is found in the specification at Page 86, lines 15-19 and Page 87, lines 1-4:

For example, and still in Figure 5a, if a buyer participant 08 wishes to place a proposed order, the browser encrypts it at the browser's secure socket layer and webserver 210s decrypts the proposed order upon receipt at multivariate negotiations engine 02's site. Webserver 210s next analyzes the proposed order to understand it and formats into a request sent to database functions 222. In addition to basic read and write functions, database functions 222 shown in Figure 5a, include operations such as search, analyze, compare, report, sort and relate (between databases.) Formatting can be as simple as "user = username" etc. A request such as "find user=username, return catalog" might be sent through IP firewall 203f. [Emphasis added]

User supplied context, which can be defined as a number of interrelated variable terms or items as noted in the specification at page 44, lines 19 and 20, for example, includes rules supplied by a sponsor, terms and conditions supplied by a seller, terms supplied

Attorney Docket Number ET98-001

PATENT

by a buyer, etc., as shown in more detail below.

An example of "user supplied context" is found in the specification at Page 65, lines 7 - 12, where the user is a buyer:

Now referring to Figure 15b, a typical proposal form for a buyer is shown. As seen here, the buyer identifies himself, his title, his company, and the company's location at lines 332-342. At lines 344-350 information about the buyer's designated freight forwarder is given. At line 350, document presentation terms are specified, as well as at line 352, 354, 358 and so on, the detailed terms of the buyer's preferences for shipment. [Emphasis added]

Another example of "User supplied context" is found in the specification at page 45, lines 6-9, where the user is a sponsor:

The sponsoring standards body establishes the community, proposes initial standards, sets the rules for negotiations, encourages and monitors negotiations, and concludes with a finally agreed upon set of standards, with each step of each negotiation that occurred along the way archived. [Emphasis added]

Still another example of "User supplied context" is seen in the specification at Page 49, lines 6-15, where the user is a seller:

Now turning to Figure 1g, the present invention can be viewed as a series of interrelated processes as shown here. For a commercial community, there are seller processes, sponsor processes and buyer processes. Remote authoring 50, is a seller process which enables a registered seller in the community to create a seller Website within the community on which to include the seller's marketing and product information, along with pricing, terms, service offerings and so on. Information generated or created in this remote authoring process 50 is automatically integrated with the community databases and listings. Promotion and brand identifying actions (such as registering the Web page with search engines) are taken automatically on behalf of the seller as well. [Emphasis added]

Support for the phrases "recognizing any changes in the terms" and "the automated

Attorney Docket Number ET98-001

PATENT

negotiations engine indicating any changes" is found in the specification at Page 62, lines 1-3:

Multivariate negotiations engine 212 keeps track of each set of changes and can display them so that the changes proposed at each step of the negotiations are clearly and accurately recorded. [Emphasis added]

In further telephone discussions with the Examiner, after an update search by the Examiner, US Patent No. 5,692,206, to Shirley et al (Shirley) was brought to applicants' attention as potentially rendering obvious applicants' invention's negotiations engine and indication of changes as part of a negotiations process. Applicants respectfully disagree. Shirley describes a document generation system which helps a user create a document for use in a negotiation, but it does not automate the negotiations process. (See Col 2, lines 11-45 in which it is clear that Shirley describes a system of libraries of standard terms from which a user can manually select one or more provisions.) Shirley discloses a "negotiating database" which is not an automated negotiations engine but simply a file or database for holding "one or more corporate suggestions 442 and one or more user notes 444." Col 5, lines 49-51. In Col. 7, lines 14-40, it is clear that Shirley describes a system in which the user selects from a library of standard contract provisions those provisions the user wants to incorporate into his or her contract proposal. This is not a negotiations process, but simply a way to create a proposed contract document that one party might send to another by regular mail, fax, or e-mail. It teaches away from applicants' invention by focusing on word-processing-like document assembly techniques, not on negotiation processes.

Attorney Docket Number ET98-001

PATENT

Finally, Shirley does not teach, disclose or render obvious an automated negotiations engine for indicating changes in the proposed terms. Instead, it teaches away from this as well, by teaching a redlining feature in which "the user creates one or more redline documents 218." Col. 7, lines 61-62. The user selects two text versions of a document for comparison and, as disclosed at Col. 11, lines 46-58:

If, at the decision block 702, the user selects a redline function, the system controller 102 branches to a process block 718. At the process block 718, the system controller 102 activates the redline unit 120. The redline unit 120 prompts the user to select to [sic] files to be compared. A redline comparison is typically done between a current document and either a corresponding standard document or a previous revision of the same document. The redline unit 120 generates a new file that specifies the differences between the two files selected by the user, without affecting the selected files. The redline unit 120 may be implemented, for example [sic] a redlining program such as CompareRite. [Emphasis added]

Redlining, as described above, is a text comparison of two documents. Changes in the text are underlined, usually in red, or "redlined." The program that does the redlining does not analyze the changes in any way, or prompt actions as a result of them.

Applicants' invention, by contrast, during the negotiations process, provides an automated negotiations engine that analyzes terms by understanding their purpose, formats them according to their purpose, and places them in a user supplied context for use by a user. The automated negotiations engine also recognizes changes in the terms and indicates what has changed. It can also prompt for additional information as a result of a change. For example, if a shipping term such as Ex Works, has changed to

Attorney Docket Number ET98-001

PATENT

Deliver Duty Free, the automated negotiations engine system of applicants' invention knows what additional information to request from the user, such as the name of the user's freight forwarder, and will format requests for that information.

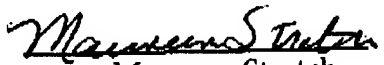
Support for this is found in applicants specification at Page 86, lines 15-19 and Page 87, lines 1-4, as referenced above, as well as in Figure 15 C-1 and Figure 15 C-2.

Applicant respectfully submits that the claims, as amended have clarified the invention and that the application is in condition for allowance. Reconsideration of all the claims is requested. Allowance of Claims 1-102 at an early date is solicited.

Applicants' Attorney respectfully requests that if she can be of any further assistance in putting all the claims in condition for allowance that she be reached by telephone at 508-653-8143 in order to discuss the application with the Examiner, so that any further objections or rejections may be addressed.

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Respectfully Submitted,


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